IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7860 OF 2006

Shri Rajesh Naupatlal Sankla & anr.. Petitioners

vs

Shri Raja Mahendragir Dhanrajgir & ors.Respondents

Mr.Uday Warunjikar for Petitioners

Mr.V.A.Thorat, Sr.Counsel for Respondents

CORAM : S.A.BOBDE, J

DATED : 3rd August, 2007

P.C.

1. The petitioner who is the defendant challenged the order of the learned District Judge refusing to dismiss the respondent's suit on the ground that the premises are located in cantonment area to which Maharashtra Rent Control Act, 1999 does not apply. The learned District Judge has referred to the Judgment of the Supreme Court in Jaisingh Jairam Tyag vs Mamachand Ratilal Agarwal reported in 1980 Bombay Rent Cases Page 84 where the Supreme Court held as follows :

> " The Central Government has issued the Notification u/s section 3 (4) of the Cantonment Act, 1957 extending the provisions of the Bombay Rent Act to the Cantonment Areas. On June 2, 1972 the Parliament also enacted Act 22 of 1972 amending the Cantonment Act, 1957 purporting to enable the Central Government to make the Rent Control Laws, in several States applicable to the Cantonment Areas from dates anterior to the dates of Notification and further purporting to validate certain pre-existing decrees. "

2. Applying the said decision the learned District

Judge has held that the notification passed by the Central Government on 29th December, 1969 is applicable to the Maharashtra Rent Control Act without considering whether the notification survives a repeal.

3. However, it is not necessary to interfere in the present case in view of section 2 of the Maharashtra Rent Control Act, 1999. Sub-section 2 of section 2 reads as follows :

> " Notwithstanding anything contained in sub-section (1), it shall also apply to the premises or, as the case may be, houses let out in the areas to which the Bombay Rents,Hotel and Lodging House Rates Control Act, 1947 or the Central Privinces and Berar Letting of Houses and Rent Control Order, 1949 issued under the Central Provinces and Berar Regulation of Letting of Accommodation Act, 1946 and Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954 were extended and applied before the date of commencement of this Act and such premises or houses continue to be so let on that date in such areas which are specified in Schedule I to this Act, notwithstanding that the area ceases to be of the description therein specified. "

4. Part IV of Schedule 1 makes it clear that Maharashtra Rent Control Act, 1999 applies to areas to which Bombay Rents Hotel and Lodging House Rates Control Act, 1947 etc applies and 7 cantonments specifically including the Pune Cantonment are mentiioned there. In this view of the matter, there is no merit in the contention that the learned trial Court has no jurisdiction under the Maharashtra Rent Control Act, 1999 to try the respondent's suit for eviction. It is important to note here that Maharashtra Rent Control Act, 1999

has received the assent of the President of India.

Petition is dismissed.

(S.A.Bobde, J)